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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/659,140 | 09/10/2003 | Tsao-Shin Chen | P-3641.255 | 3032 |

7590 12/09/2005

Jackson Walker L.L.P.
Suite 2100
112 E. Pecan Street
San Antonio, TX 78205

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| EXAMINER |
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CECIL, TERRY K

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| ART UNIT | PAPER NUMBER |
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1723

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,140

Applicant(s)

CHEN ET AL.

Examiner

Mr. Terry K. Cecil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9-10-2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9-10-2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 103***

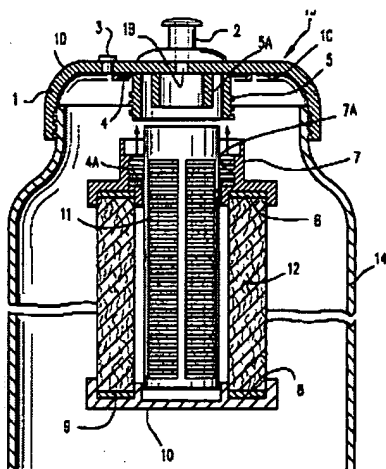
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1, 6, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nohren, Jr. (U.S. 6,569,329), [as evidenced by Magnusson et al. (U.S. 5,273,649) incorporated by reference] in view of the knowledge of the skilled man or alternately in view of Smolko et al.

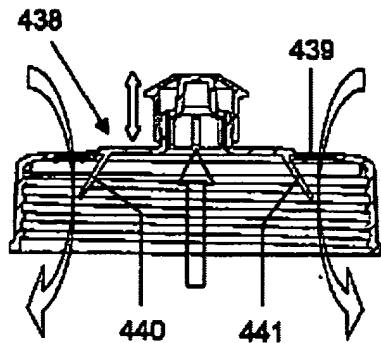


(U.S. 2004/0173556 A1). Nohren teaches a cap 1 (figure 1) adapted to attach to the top of a sports bottle. The cap includes an upper surface having a suction tube and a lower surface defining a recess and having a connecting tube (5, 5A) depending therefrom. A filter element 11 is attached to one of the connecting tubes and comprises a perforated shell enclosing a central area filled with filtering material therein.

The cap also includes a vent 3. Although Nohren doesn't teach multiple vents in the cap, such would have been obvious to the skilled man since it has been decided that duplication of parts is

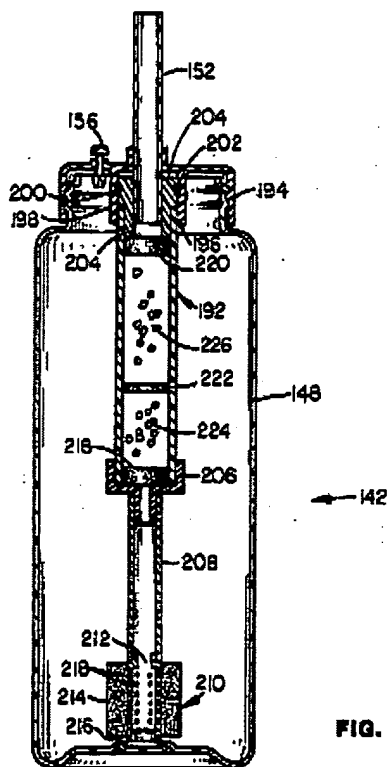
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within ordinary skill, see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). An additional vent would enhance the venting effect necessary for dispensing.

Fig. 24B

Alternately, multiple vents in the cap of a sports bottle is known in the art of Smolko (see e.g. figures 24A to 25C) [as in claim 1]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have multiple vents in the sports bottle cap of Nohren since Smolko teaches the benefit of reducing negative pressure that

builds up inside a container (e.g. sports bottle) when a beverage is being consumed therefrom (abstract).



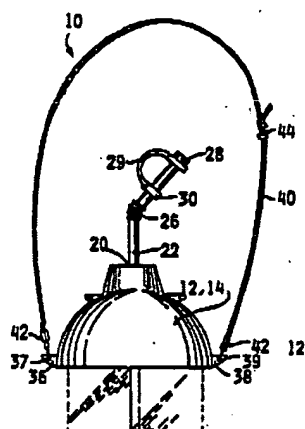
As for claims 9-10, the suction tube having an end extending from the bottom face of the cap within the connecting tube is clearly shown in figure 6, of Magnusson (incorporated into Nohren by reference, see col. 8, lines 54-59 of Nohren) [as in claim 9].

As for claim 11, the filter element including a resilient tube is shown in figure 6 (208) or figure 3 (between "36" and "68") [as in claim 11].

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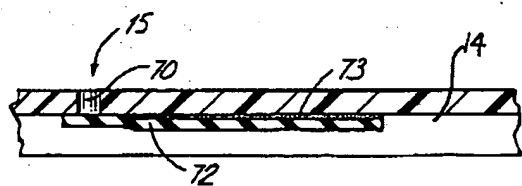
As for claim 6, as shown in figure 24B of Smolko, Smolko teaches a moveable hat 436 having a tab formed on an inner periphery and engaging "limiting cutout" on the outer periphery of a suction tube. A "plug" is also formed under the hat for sealing the suction tube [as in claim 6]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the hat of Smolko in the invention of Nohren since Smolko teaches the benefit of opening and closing the bottle for dispensing.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nohren (as applied above) in further view of Cohanfard (U.S. 5,328,069). Cohanfard teaches ears 36 on



opposite sides of a cap adapted to secure with a belt 40 [as in claim 13]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the ears of Cohanfard on the cap of the modified Nohren, since Cohanfard teaches the benefit of allowing hands-free carrying of the container and consumption of the beverage (col. 1, lines 10-15).

4. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nohren as modified in section 2 above and in further view of Lonneman (U.S. 5,545,315). Nohren teaches an o-ring sealing gasket 4 on the bottom surface of the cap but fails to teach a membrane extending from the o-ring to abut the bottom face of the cap. However, Lonneman teaches

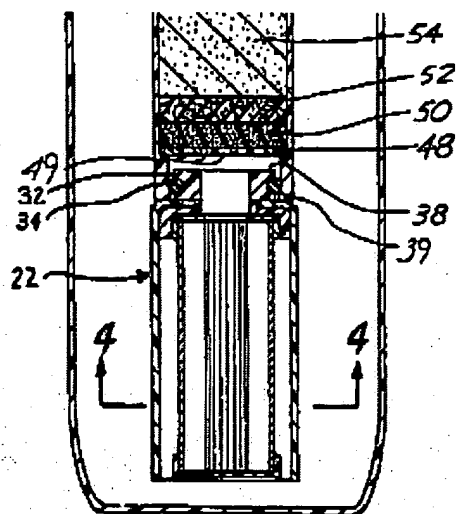


a membrane flapper 72 on the bottom surface of the cap to detachably cover the hole [as in claims 7-8].

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It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the flapper of 72 of Lonneman to cover the vents of Nohren, since Lonneman teaches the benefit of preventing spillage of beverage during dispensing. Upon modification, the flapper would extend "from" the o-ring 4 of Nohren (it is pointed out that the claim language "the membrane *extending from* the o-ring" doesn't require the membrane to be *attached to* the o-ring).

5. Claims 2-5, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nohren (as modified in section 2) in view of Lonneman (U.S. 5,545,315) and Price (U.S. 5,439,593). As shown in Magnusson (incorporated into Nohren by reference, see col. 8, lines 54-59 of Nohren), the modified Nohren teaches stacked filter elements within a sports bottle but doesn't teach the bottom cover to define a notch for engaging another tube nor the bottom cover that is inserted into the shell. However, Lonneman teaches a bottom including a notch to engage



an adjacent filter. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the notching arrangement of Lonneman for the stacked filters of the modified Nohren, since Lonneman teaches the benefit of a configuration wherein the filter cartridges can be readily replaced.

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Price teaches a bottom cover that is inserted into the shell of the filter element and that attached to an adjacent element [as in claim 2]. See figure 5 thereof.

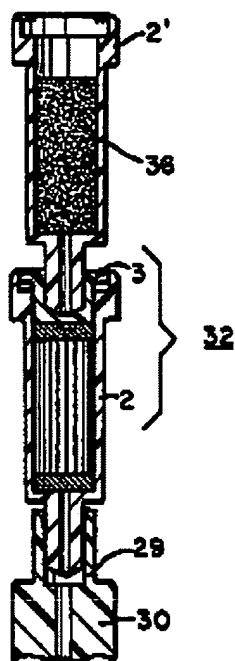


FIG. 5

It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the bottom end of the modified Nohren to include the bottom cover of Price, since Price teaches the benefit of removably attached to an adjacent filter and because such would allow the contents of the filter to be replaced.

As for claim 12, the filter element including a resilient tube is shown in figure 6 (208) or figure 3 (between “36” and “68”) of Magnusson [as in claim 11]. As for claims 3-5 and 14, removable attachment means for the filtering components including wedges and threads are shown in the applied art (e.g. threads 5 of Nohren; wedges 240 (figure 7) of

Magnusson) such that the use of either on both as an attachment means

is within ordinary skill.

Allowable Subject Matter

6. Claims 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including *all of the limitations* of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

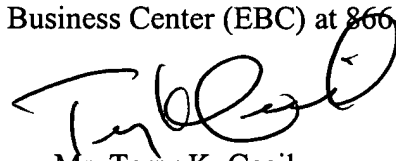
The closest cited art—Nohren—fails to anticipate or render obvious, alone or in any proper

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combination, a bottom cover including the claimed rectangular slit and inclined cutouts of claims 15 and 16.

Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is (571) 273-8300.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil
Primary Examiner
Art Unit 1723

TKC
December 6, 2005